

1 AN ACT concerning public utilities.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Public Utilities Act is amended by
5 changing Sections 4-202, 4-203, 5-109, 5-202, and 10-105 and
6 adding Section 5-202.1 as follows:

7 (220 ILCS 5/4-202) (from Ch. 111 2/3, par. 4-202)

8 Sec. 4-202. Action for injunction. Whenever the
9 Commission shall be of the opinion that any public utility is
10 failing or omitting or about to fail or omit, to do anything
11 required of it by law, or by any order, decision, rule,
12 regulation, direction, or requirement of the Commission,
13 issued or made under authority of this Act, or is doing
14 anything or about to do anything or permitting anything or
15 about to permit anything to be done, contrary to or in
16 violation of law or any order, decision, rule, regulation,
17 direction, or requirement of the Commission, issued or made
18 under authority of this Act, the Commission shall file an
19 action or proceeding in the circuit court in and for the
20 county in which the case or some part thereof arose, or in
21 which the person or corporation complained of, if any, has
22 its principal place of business, or in which the person
23 complained of, if any, resides, in the name of the People of
24 the State of Illinois, for the purpose of having the
25 violation or threatened violation stopped and prevented,
26 either by mandamus or injunction.

27 The Commission may express its opinion in a resolution
28 based upon whatever facts and evidence have come to its
29 attention and may issue the resolution ex parte and without
30 holding any administrative hearing before bringing suit.
31 Except in cases involving an imminent threat to the public

1 health or public safety, no such resolution shall be adopted
 2 until 48 hours after the public utility has been given notice
 3 of (i) the substance of the alleged violation, including a
 4 citation to the law or order, decision, rule, regulation, or
 5 direction of the Commission alleged to have been violated and
 6 (ii) the time and date of the meeting at which such
 7 resolution will first be before the Commission for
 8 consideration.

9 The Commission shall file the action or proceeding by
 10 complaint in the circuit court, alleging the violation or
 11 threatened violation complained of, and praying for
 12 appropriate relief by way of mandamus or injunction. It
 13 shall thereupon be the duty of the court to specify a time,
 14 not exceeding 20 days after the service of the copy of the
 15 complaint, within which the public utility complained of must
 16 answer the complaint, and in the meantime said public utility
 17 may be restrained. In case of default in answer, or after
 18 answer, the court shall immediately inquire into the facts
 19 and circumstances of the case. Such corporation or persons
 20 as the court may deem necessary or proper to be joined as
 21 parties, in order to make its judgment, or order effective,
 22 may be joined as parties. The final judgment in any action
 23 or proceeding shall either dismiss the action or proceeding
 24 or grant relief by mandamus or injunction or be made
 25 permanent as prayed for in the complaint, or in such modified
 26 or other form as will afford appropriate relief. An appeal
 27 may be taken from such final judgment as in other civil
 28 cases.

29 (Source: P.A. 84-617.)

30 (220 ILCS 5/4-203) (from Ch. 111 2/3, par. 4-203)

31 Sec. 4-203. Action to recover penalties.

32 (a) All civil penalties established under this Act shall
 33 be assessed and collected by the Commission. Except for the

1 penalties provided under Section 2-202, civil penalties may
2 be assessed only after notice and opportunity to be heard.
3 In determining the amount of the penalty, the Commission
4 shall consider the appropriateness of the penalty to the size
5 of the business of the public utility, corporation other than
6 a public utility, or person acting as a public utility
7 charged, the gravity of the violation, such other mitigating
8 or aggravating factors as the Commission may find to exist,
9 and the good faith of the public utility, corporation other
10 than a public utility, or person acting as a public utility
11 charged in attempting to achieve compliance after
12 notification of a violation. Nothing in this Section,
13 however, increases or decreases any minimum or maximum
14 penalty prescribed elsewhere in this Act.

15 (b) If timely judicial review of a Commission order that
16 imposes a civil penalty is taken by the public utility,
17 corporation other than a public utility, or person acting as
18 a public utility on which the civil penalty has been imposed,
19 the reviewing court shall enter a judgment on all amounts
20 upon affirmance of the Commission order. If timely judicial
21 review is not taken and the civil penalty remains unpaid for
22 60 days after service of the order, the Commission in its
23 discretion may either begin revocation proceedings or bring
24 suit to recover the penalties. Unless stayed by a reviewing
25 court, interest at the post-judgment rate set forth in
26 Section 2-1303 of the Code of Civil Procedure shall accrue
27 from 60 days after the date of service of the Commission
28 order.

29 (c) Actions to recover delinquent civil penalties under
30 this Act shall be brought in the name of the People of the
31 State of Illinois in the circuit court in and for the county
32 in which the cause, or some part thereof, arose, or in which
33 the corporation complained of, if any, has its principal
34 place of business, or in which the person, if any, complained

1 of, resides. The action shall be commenced and prosecuted to
2 final judgment by the Commission. In any such action, all
3 interest incurred up to the time of final court judgment may
4 be sued for and recovered in that action. In all such
5 actions, the procedure and rules of evidence shall be the
6 same as in ordinary civil actions, except as otherwise herein
7 provided. All fines and penalties recovered by the State in
8 any such action shall be paid into the State treasury to the
9 credit of the General Revenue Fund. Any such action may be
10 compromised or discontinued on application of the Commission
11 upon such terms as the court shall approve and order.

12 (d) Civil penalties related to the late filing of
13 reports, taxes, or other filings shall be paid into the State
14 treasury to the credit of the Public Utility Fund. Except as
15 otherwise provided in this Act, all other fines and civil
16 penalties shall be paid into the State treasury to the credit
17 of the General Revenue Fund. Except as otherwise provided in
18 this Act, actions to recover penalties under this Act shall
19 be brought in the name of the People of the State of Illinois
20 in the circuit court in and for the county in which the
21 cause, or some part thereof, arose, or in which the
22 corporation complained of, if any, has its principal place of
23 business, or in which the person, if any, complained of,
24 resides. The action shall be commenced and prosecuted to
25 final judgment by the Commission. In any such action, all
26 penalties incurred up to the time of commencing the same may
27 be sued for and recovered. In all such actions, the procedure
28 and rules of evidence shall be the same as in ordinary civil
29 actions, except as otherwise herein provided. All fines and
30 penalties recovered by the State in any such action shall be
31 paid into the State treasury to the credit of the general
32 fund. Any such action may be compromised or discontinued on
33 application of the Commission upon such terms as the court
34 shall approve and order.

1 (Source: P.A. 84-617.)

2 (220 ILCS 5/5-109) (from Ch. 111 2/3, par. 5-109)

3 Sec. 5-109. Reports; false reports; penalty. Each
4 public utility in the State shall each year furnish to the
5 Commission, in such form as the Commission shall require,
6 annual reports as to all the items mentioned in the preceding
7 Sections of this Article, and in addition such other items,
8 whether of a nature similar to those therein enumerated or
9 otherwise, as the Commission may prescribe. Such annual
10 reports shall contain all the required information for the
11 period to 12 twelve months ending on the ~~thirtieth day of~~
12 June 30 in each year, or ending on the ~~thirty-first day of~~
13 December 31 in each year, as the Commission may by order
14 prescribe for each class of public utilities, and shall be
15 filed with the Commission at its office in Springfield within
16 three months after the close of the year for which the report
17 is made. The Commission shall have authority to require any
18 public utility to file monthly reports of earnings and
19 expenses of such utility, and to file other periodical or
20 special, or both periodical and special reports concerning
21 any matter about which the Commission is authorized by law to
22 keep itself informed. All reports shall be under oath.

23 When any report is erroneous or defective or appears to
24 the Commission to be erroneous or defective, the Commission
25 may notify the public utility to amend such report within 30
26 ~~thirty~~ days, and before or after the termination of such
27 period the Commission may examine the officers, agents, or
28 employees, and books, records, accounts, vouchers, plant,
29 equipment and property of such public utility, and correct
30 such items in the report as upon such examination the
31 Commission may find defective or erroneous.

32 All reports made to the Commission by any public utility
33 and the contents thereof shall be open to public inspection,

1 unless otherwise ordered by the Commission. Such reports
2 shall be preserved in the office of the Commission.

3 Any public utility which fails to make and file any
4 report called for by the Commission within the time
5 specified; or to make specific answer to any question
6 propounded by the Commission within 30 ~~thirty~~ days from the
7 time it is lawfully required to do so, or within such further
8 time, not to exceed 90 ~~ninety~~ days, as may in its discretion
9 be allowed by the Commission, shall forfeit up to \$100 for
10 each and every day it may so be in default if the utility
11 collects less than \$100,000 annually in gross revenue; and if
12 the utility collects \$100,000 or more annually in gross
13 revenue, it shall forfeit \$1,000 ~~\$100~~ per day for each and
14 every day it is in default.

15 Any person who willfully ~~wilfully~~ makes any false return
16 or report to the Commission, or to any member, officer, or
17 employee thereof, any person who willfully, in a return or
18 report, withholds or fails to provide material information to
19 which the Commission is entitled under this Act and which
20 information is either required to be filed by statute, rule,
21 regulation, order, or decision of the Commission or has been
22 requested by the Commission, and any person who willfully
23 aids or abets such person shall be guilty of a Class A
24 misdemeanor.

25 (Source: P.A. 84-617.)

26 (220 ILCS 5/5-202) (from Ch. 111 2/3, par. 5-202)

27 Sec. 5-202. Violations; penalty. Any public utility, or
28 any corporation other than a public utility, or any person
29 acting as a public utility, that ~~which~~ violates or fails to
30 comply with any provisions of this Act, or that ~~which~~ fails
31 to obey, observe, or comply with any order, decision, rule,
32 regulation, direction, or requirement, or any part or
33 provision thereof, of the Commission, made or issued under

1 authority of this Act, in a case in which a penalty is not
2 otherwise provided for in this Act, shall be subject to a
3 civil penalty imposed in the manner provided in Section
4 4-203. A small public utility, as defined in subsection (b)
5 of Section 4-502 of this Act, is subject to a civil penalty
6 of not less than \$500 nor more than \$2,000 for each and every
7 offense. All other public utilities, corporations other than
8 a public utility, and persons acting as a public utility are
9 subject to a civil penalty of up to \$30,000 for each and
10 every offense, except as provided in this Section and in
11 Sections 13-101, 13-304, 13-305, and 5-202.1 of this Act.

12 Every violation of the provisions of this Act or of any
13 order, decision, rule, regulation, direction, or requirement
14 of the Commission, or any part or portion thereof, by any
15 corporation or person, is a separate and distinct offense,
16 provided, however, that if the same act or omission violates
17 more than one provision of this Act, or of any order,
18 decision, rule, regulation, direction, or requirement of the
19 Commission, only one penalty or cumulative penalty may be
20 imposed for such act or omission. In case of a continuing
21 violation, each day's continuance thereof shall be a separate
22 and distinct offense, provided, however, that the cumulative
23 penalty for any continuing violation shall not exceed
24 \$500,000, except in the case of a small utility, as defined
25 in subsection (b) of Section 4-502 of this Act, in which case
26 the cumulative penalty for any continuing violation shall not
27 exceed \$35,000, and provided further that these limits shall
28 not apply where the violation was intentional and either (i)
29 created substantial risk to the safety of the utility's
30 employees or customers or the public or (ii) was intended to
31 cause economic benefits to accrue to the violator and-in-case
32 of--a--continuing--violation--each--day's--continuance--thereof
33 shall-be-a-separate-and-distinct-offense.

34 In construing and enforcing the provisions of this Act

1 relating to penalties, the act, omission, or failure of any
2 officer, agent, or employee of any public utility,
3 corporation other than a public utility, or person acting as
4 a public utility, that is acting within the scope of his
5 official duties or employment, shall in every case be deemed
6 to be the act, omission, or failure of such public utility,
7 corporation other than a public utility, or person acting as
8 a public utility.

9 If the party who has violated or failed to comply with
10 this Act or an order, decision, rule, regulation, direction,
11 or requirement of the Commission, or any part or provision
12 thereof, fails to seek timely review pursuant to Sections
13 10-113 and 10-201 of this Act ~~within 30 days of service of~~
14 ~~the order~~, the party shall, upon expiration of the statutory
15 time limit 30 days, be subject to the civil penalty provision
16 of this Section.

17 No penalties shall accrue under this provision until 15
18 days after the mailing of a notice to such party or parties
19 that they are in violation of or have failed to comply with
20 the Act or order, decision, rule, regulation, direction, or
21 requirement of the Commission or any part or provision
22 thereof, except that this notice provision shall not apply
23 when the violation was intentional.

24 (Source: P.A. 87-164.)

25 (220 ILCS 5/5-202.1 new)

26 Sec. 5-202.1. Misrepresentation before Commission;
27 penalty.

28 (a) Any person or corporation, as defined in Sections
29 3-113 and 3-114 of this Act, who knowingly misrepresents
30 facts or knowingly aids another in doing so or knowingly
31 permits another to misrepresent facts through testimony or
32 the offering or withholding of material information in any
33 proceeding shall be subject to a civil penalty. Whenever the

1 Commission is of the opinion that a person or corporation is
2 misrepresenting or has misrepresented facts, the Commission
3 may initiate a proceeding to determine whether a
4 misrepresentation has in fact occurred. If the Commission
5 finds that a person or corporation has violated this Section,
6 the Commission shall impose a penalty of not less than \$1,000
7 and not greater than \$500,000. Each misrepresentation of a
8 fact found by the Commission shall constitute a separate and
9 distinct violation. In determining the amount of the penalty
10 to be assessed, the Commission may consider any matters of
11 record in aggravation or mitigation of the penalty, as set
12 forth in Section 4-203, including but not limited to the
13 following:

14 (1) the presence or absence of due diligence on the
15 part of the violator in attempting to comply with the
16 Act;

17 (2) any economic benefits accrued, or expected to
18 be accrued, by the violator because of the
19 misrepresentation; and

20 (3) the amount of monetary penalty that will serve
21 to deter further violations by the violator and to
22 otherwise aid in enhancing voluntary compliance with the
23 Act.

24 (b) Any action to enforce civil penalties arising under
25 this Section shall be undertaken pursuant to Section 4-203.

26 (220 ILCS 5/10-105) (from Ch. 111 2/3, par. 10-105)

27 Sec. 10-105. No person shall be excused from testifying
28 or from producing any papers, books, accounts or documents in
29 any investigation or inquiry or upon any hearing ordered by
30 the Commission, when ordered to do so by the Commission or
31 any commissioner or hearing examiner, upon the ground that
32 the testimony or evidence, documentary or otherwise, may tend
33 to incriminate him or subject him to a penalty or forfeiture.

1 But no person shall be prosecuted or subjected to any penalty
2 or forfeiture for or on account of any transaction, matter or
3 thing concerning which he may testify or produce evidence,
4 documentary or otherwise, before the Commission or a
5 commissioner or hearing examiner: Provided, that such
6 immunity shall extend only to a natural person, who in
7 obedience to a subpoena, gives testimony under oath or
8 produces evidence, documentary or otherwise under oath. No
9 person so testifying shall be exempt from prosecution and
10 punishment for perjury committed in so testifying. The
11 Commission or a commissioner or hearing examiner may, on the
12 motion of a party or on its own motion, strike, in whole or
13 in part, the testimony of a person who is not reasonably
14 prepared to respond to questions under cross-examination
15 intending to elicit information directly related to matters
16 raised by that person in his testimony.

17 (Source: P.A. 84-617.)

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.